

S.B.CIVIL WRIT PETITION NO.5116/2005
(Smt.Dan Kumari v. State of Rajasthan & Ors.)

Date of Order :: 5th December, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Ashwani Swami, for the petitioner.
Mr. V.K.Bhadu, for the respondents.

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The petitioner, a young lady of 30 years with five children, by this petition for writ is seeking a direction for Central Cooperative Bank Ltd., Sriganganagar to employ her on compassionate grounds being widow of Late Shri Hukum Bahadur, who was in employment of "Cotton Complex" and was working with Central Cooperative Bank on deputation at the time of his death i.e. on 8.2.2005.

The facts leading to present writ petition are that the Government of Rajasthan granted an approval for absorption of the employees of the Cotton Complex with the service of the Central Cooperative Bank Ltd., Sriganganagar as a consequence of closure of Cotton Complex. The decision aforesaid was taken on 3.1.2005. The Central Cooperative Bank Ltd., Sriganganagar also resolved on 12.1.2005 for absorption of the employees, reference of whom is given above. The Registrar, Cooperative Societies in exercise of the power conferred upon him under Rule 39 (1) of the Rajasthan Cooperative Societies Rules, 2003, also sanctioned the resolution dated 12.1.2005 by an order dated 24.2.2005.

The husband of the petitioner who was already serving the Central Cooperative Bank Ltd., Sriganaganagar on deputation, however, unfortunately died on 8.2.2005 as a consequent to an accident. The petitioner accordingly under an application dated 4.3.2005 sought employment on compassionate grounds in accordance with the Rajasthan Compassionate Appointments to Dependents of Deceased Government Servants Rules, 1996 (hereinafter referred to as "the Rules of 1996") but that came to be rejected by the Central Cooperative Bank Ltd., Sriganaganagar on the count that Shri Hukum Bahadur at the time of his death was not in employment of the Central Cooperative Bank Ltd., Sriganaganagar but was working only being deputed there. Hence, this petition for writ is preferred.

while substantiating the claim made in the petition for writ it is contended by counsel for the petitioner that though the husband of the petitioner was in employment of the Cotton Complex but a decision was already taken on 3.1.2005 to absorb all the employees of the Cotton Complex with the Central Cooperative Bank and in fact the employees have already been absorbed in service of the Central Cooperative Bank, therefore, a similar treatment was required to be extended to Hukum Bahadur also but due to his unfortunate death he could not be absorbed in services of the Central Cooperative Bank. It is stated that the Cotton Complex has already been closed and,

therefore, whatever rights husband of the petitioner was having with Cotton Complex stands transferred to the Central Cooperative Bank being a successor employer.

Per contra, in reply to the writ petition it is stated that on 8.2.2005 Shri Hukum Bahadur was not in employment of the Central Cooperative Bank and, therefore, the application submitted by the petitioner was rightly rejected by the bank.

Heard counsel for the parties.

From pleadings of the petition it is apparent that a decision was taken by the State Government for absorption of the employees of the Cotton Complex with Sriganganagar Central Cooperative Bank on 3.1.2005. The bank also under a resolution dated 12.1.2005 accepted for absorption of such employees in its services and the resolution aforesaid was sent to the Registrar, Cooperative Societies for its approval on 12.1.2005, as such in principle, decision was already taken prior to the death of Shri Hukum Bahadur for absorption of the employees of the Cotton Complex in service of the Central Cooperative Bank and only a formal approval from the Registrar, Cooperative Societies was to be obtained. The term "formal" is intentionally used here for the reason that as a matter of fact the decision for absorption of such

employees with services of the Central Cooperative Bank was already taken and approved by the Government of Rajasthan on 3.1.2005, therefore, the Registrar being a functionary of the State Government was having no alternative but to approve resolution. It is pertinent to note that husband of the petitioner Shri Hukum Bahadur quite earlier to 3.1.2005 was already serving the Central Cooperative Bank Ltd., Sriganganagar on deputation. The other employees of the Cotton Complex also become employees of the Central Cooperative Bank on being absorbed subsequently.

The factual position stated above establishes it well that Shri Hukum Bahadur was also to be absorbed in service of the Central Cooperative Bank Ltd., Sriganganagar in pursuant to the decision dated 3.1.2005 and the resolution dated 12.1.2005. It was unfortunate that before getting a formal approval for execution of the decision and the resolution stated above, he met with an accident and died. The respondent bank is technically correct in saying that on 8.2.2005 due to non availability of approval from Registrar Shri Hukum Bahadur was not in its employment but the approval of the Registrar in present case was just formal as a decision for absorption of the employees of Cotton Complex was already taken by the Government and the Registrar being a functionary of the State was having no alternative but to approve the

resolution, therefore, absorption of Hukum Bahadur was certain in the service of Bank. If there were all chances of getting employed with the Bank and as Shri Hukum Bahadur was already working with Bank, the equity demands for appointment of the petitioner with bank on compassionate grounds. This Court while balancing equity is also required to keep in view that the human affairs are always required to be considered and settled to satisfy the requirements of justice. The petitioner has already lost her husband due to cruel decision of destiny and her right to sustain and support life and dignity is denied by the bank on a technical ground. The facts of the present case are adequate to tilt the balance of equity in favour to direct the respondent bank to employ the petitioner on compassionate grounds.

Accordingly, this petition for writ is allowed with the direction to respondent Central Cooperative Bank Ltd., Sriganaganagar to give appointment to the petitioner on compassionate grounds being widow of Late Shri Hukum Bahadur. It is expected from the respondent bank to employ the petitioner in its service within a period of three months from today.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.